

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

RANDALL SMITH)
)
Plaintiff,) CASE NO:
)
vs.)
)
)
LAKE COUNTY, INDIANA, OSCAR)
MARTINEZ, Sheriff of Lake County,)
JAY CRUZ, Individually and in his capacity)
As a Lake County Police Officer)
Defendants.)

COMPLAINT

Comes now Plaintiff, Randall Smith, by counsel, James W. Hortsman of the James W. Hortsman Law Group, LLC, and hereby states this cause of action against Defendants Lake County, Indiana, Oscar Martinez, Sheriff of Lake County, and Jay Cruz, Individually and in his capacity as a Lake County Police Officer, as follows:

JURISDICTION

1. This case of action for damages is based upon violations of the Fourth and Fourteenth Amendments of the United States Constitution pursuant to 42 U.S.C. § 1983 as well as related state claims.
2. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1331 and 28 U.S.C. § 1367.

PARTIES

3. Plaintiff, Randall Smith, is an adult resident of the Town of Gary, Lake County, State of Indiana.
4. Defendant Lake County, Indiana is a political subdivision of the State of Indiana.

5. Defendant Oscar Martinez was and is the Sheriff of Lake County at all times relevant and also has liability for the actions of Defendant Jay Cruz pursuant to I.C. § 36-2-16-3 and I.C. § 5-6-1-3.

6. Defendant Jay Cruz (known hereafter as “Cruz”) is an employee of the Lake County Sheriff’s Department and was acting under the color of state law at all times relevant to this action.

GROUNDS FOR RELIEF

7. On or about May 31, 2020, Defendant Cruz was acting in his scope and capacity as a deputy police officer for the Lake County Sheriff’s Department at all times relevant to this claim.

8. That as a part of his duties with the Lake County Sheriff’s Department on May 31, 2020, Defendant Cruz was required to assist with keeping the peace at the demonstration against police brutality at Southlake Mall, Hobart, Indiana.

9. That on the date in question, Defendant Cruz, while acting in his capacity as a Lake County Sheriff Department’s deputy policy officer, came in contact with Plaintiff at the parking lot of Outback Steakhouse, 1590 E. Lincoln Hwy., Merrillville, Indiana 46410.

10. That upon coming into contact with the Plaintiff, Defendant Cruz physically assaulted the Plaintiff.

11. That Cruz failed to intervene to assist Plaintiff from attack from other currently unknown Lake County Sheriff’s Department officers.

12. That while Plaintiff was on the ground, Cruz stood between the Plaintiff and other witnesses as to prevent video recording and evidentiary documentation.

13. As a direct and proximate result of Defendant Cruz's actions as stated above, Plaintiff sustained personal injuries as well as suffered severe emotional distress due to the violation of his civil rights.

CAUSES OF ACTION

14. That as a result of the above, the Plaintiff's Fourth and Fourteenth Amendment due process rights were violated by Defendant Cruz.

15. That Defendant Cruz knew at the time of the deprivation of the Plaintiff's constitutional rights that the constitution forbids such a willful deprivation of civil rights in the circumstances of this case.

16. That Defendant Cruz committed battery and false imprisonment of Plaintiff, which Defendant Lake County, Indiana and Defendant Lake County Sheriff Oscar Martinez are responsible for said damages resulting from these actions based upon respondeat superior and the previously cited statutes.

17. That Defendant Cruz committed battery and/or intentional infliction of emotional distress upon the Plaintiff for which Defendant Lake County, Indiana and Defendant Lake County Sheriff, Oscar Martinez are responsible for said damages resulting from these action based upon respondeat superior, negligent hiring, negligent supervision, and negligent retention, as well as the statutes cited above.

18. That Defendants Lake County, Indiana and Sheriff Oscar Martinez negligently retained, hired, supervised and trained Defendant Cruz.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Randall Smith demands the following relief against the Defendants Jay Cruz, Lake County, Indiana and Lake County Sheriff Oscar Martinez as follows:

- a. Compensatory damages for the Plaintiff's injuries sustained pursuant to state cause of action;
- b. Compensatory damages for deprivation of his civil rights;
- c. Award Punitive damages against Defendant Cruz;
- d. Reasonable attorney fees, together with costs and expenses of litigation pursuant to 42 U.S.C. § 1088;
- e. Just compensation for injuries and damages sustained by the Plaintiff including damages for the intention of infliction of emotional distress; and
- f. All other relief just and proper in the premises.

JURY DEMAND

Plaintiff demands trial by jury.

/s/ James W. Hortsman

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